

Exhibit F

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF CALIFORNIA
4

5 LUCENT TECHNOLOGIES INC.,
6 Plaintiff and Counterclaim-defendant,
7 v.

8 GATEWAY, INC. and GATEWAY
9 COUNTRY STORES LLC, GATEWAY
10 COMPANIES, INC., GATEWAY
11 MANUFACTURING LLC and
12 COWABUNGA ENTERPRISES, INC.,

13 Defendants and Counter-claimants,
14 and

15 MICROSOFT CORPORATION,
16 Intervenor and Counter-claimant,
17

18 MICROSOFT CORPORATION,
19 Plaintiff and Counterclaim-defendant,
20 v.

21 LUCENT TECHNOLOGIES INC.,
22 Defendant and Counter-claimant
23

24 LUCENT TECHNOLOGIES INC.,
25 Plaintiff,
26

27 v.
28 DELL, INC.,
Defendant.

Civil No: 02CV2060-B(CAB)
consolidated with
Civil No: 03CV0699-B (CAB) and
Civil No: 03CV1108-B (CAB)

**ORDER AND PARTIAL JUDGMENT
UNDER FRCP 54(b) REGARDING U.S.
PATENT NOS. 5,341,457 AND RE 39,080
ONLY FOLLOWING SUMMARY
JUDGMENT AND JURY TRIAL.**

**THESE CONSOLIDATED CASES ARE
NOT TERMINATED BY THIS PARTIAL
JUDGMENT.**

1 Plaintiff Lucent Technologies, Inc. (“Lucent”) was represented by counsel John M.
2 Desmarais, Robert A. Appleby, Michael P. Stadnick, Paul A. Bondor, Edward Donovan,
3 Elizabeth T. Bernard, and Alison P. Adema. Defendant Microsoft Corporation
4 (“Microsoft”) was represented by counsel John Gartman, Thomas M. Melsheimer, Alan D.
5 Albright, Justin M. Barnes, John M. Bustamante, John E. Giust, Stephen P. McGrath,
6 Renee Skinner, Justin M. Barnes, Thomas N. Millikan, Jaime K. Olin, Matthew Bernstein,
7 Joseph P. Reid, and John M. Skenyon.¹

8 The instant matter concerns two patents, U.S. Patent No. 5,341,457 (“the ‘457
9 patent”) and U.S. Patent No. RE 39,080 (“the ‘080 patent). This matter came before the
10 Court on January 4, 2007, for summary judgment. After a consideration of the parties’
11 extensive briefing on the matter as well as a consideration of the parties’ arguments
12 presented at the oral hearing, the Court granted summary adjudication of no invalidity for
13 indefiniteness of the ‘457 and the ‘080 patents and no broadening reissue as to the ‘080
14 patent. The Court also granted summary adjudication on Microsoft’s affirmative defenses
15 on both patents as follows: no patent exhaustion and implied license arising therefrom, no
16 equitable estoppel/waiver and implied license arising therefrom, no patent misuse and no
17 laches.

18 Thereafter, on January 29, 2007, the matter came on for jury trial and was submitted
19 to the jury on February 15, 2007. On February 22, 2007, the jury returned a verdict of
20 infringement in favor of Lucent, finding that Microsoft’s Windows Media Player 10 and
21 Windows Media Player with Cyberlink plug-in infringed claims 1, 5, and 10 of the ‘457
22 patent by inducing infringement and contributory infringement both within and outside the
23 United States. The jury also found that Microsoft’s Windows Media Player 6.1 through 9,
24 10, and 11 and Windows Media Player with Cyberlink plug-in infringed claims 1, 3, and 4
25 of the ‘080 patent by inducing infringement and contributory infringement both within and

26
27 ¹ The Group 2 patents (U.S. Patent Nos. 5,341,457 and RE 39,080) were not asserted against
28 the remaining Defendants Gateway et al. and Dell.

1 outside the United States. The jury further found that the '080 patent was not invalid on the
2 grounds of anticipation, obviousness, no error warranting reissue and inventorship. On the
3 issue of damages, the jury awarded Plaintiff Lucent in the amount of \$769,028,351.00 for
4 infringement of the '457 patent and \$769,028,351.00 for infringement of the '080 patent.
5 The jury did not reach a verdict on willful infringement. On February 22, 2007, the Court
6 granted Microsoft's motion for judgment as a matter of law of no willful infringement.

7 Several additional issues came before the Court to determine as non-jury issues:
8 ownership, license, recapture, intervening rights, inequitable conduct, and standing. As set
9 forth in the Court's Order of March 19, 2007, the Court found the following: Lucent is the
10 sole owner of the '080 patent and has standing to bring the instant suit; the defense of
11 license for the '080 patent is not available to Microsoft; the '080 patent is not invalid for
12 recapture; and Microsoft is not entitled to any intervening rights. In its Order of March 27,
13 2007, the Court ruled that there was no inequitable conduct regarding the '080 patent. In its
14 Order of April 27, 2007, the Court found that Lucent had standing to sue for infringement of
15 the '457 patent.

16 Now therefore, this Court enters judgement as follows:

- 17 1. Microsoft's Windows Media Player 10 and Windows Media Player with
18 Cyberlink plug-in infringe claims 1, 5, and 10 of the '457 patent by inducing
19 infringement and contributory infringement both within and outside the United
20 States;
- 21 2. Microsoft's Windows Media Player 6.1 through 9, 10, and 11 and Windows
22 Media Player with Cyberlink plug-in infringe claims 1, 3, and 4 of the '080
23 patent by inducing infringement and contributory infringement both within
24 and outside the United States;
- 25 3. The '080 patent is not invalid on the asserted grounds of anticipation,
26 inventorship, obviousness, indefiniteness, broadening reissue, no error
27 warranting reissue and recapture;

4. The '457 patent is not invalid on the asserted grounds of indefiniteness;
5. Lucent is entitled to damages from Microsoft in the amount of \$769,028,351.00 for infringement of the '457 patent and \$769,028,351.00 for infringement of the '080 patent;
6. Microsoft did not willfully infringe the '457 or '080 patents;
7. Lucent is the sole owner of the '080 patent and has standing to bring the instant suit;
8. The defense of license for the '080 patent is not available to Microsoft;
9. Microsoft is not entitled to any intervening rights;
10. Lucent has standing with regards to the '457 patent;
11. There was no inequitable conduct with respect to the '080 patent;
12. The following defenses are not available to Microsoft: patent exhaustion and implied license arising therefrom; equitable estoppel/waiver and implied license arising therefrom; patent misuse; and laches.

The Court finds that there is no just reason for delay and upon an express direction for the entry of judgment, the Court therefore enters final judgment on these patents under Fed. R. Civ. P. 54(b). Now, therefore, it is hereby **ORDERED, ADJUDGED AND DECREED** that Lucent shall have judgment against Microsoft for infringement of the '457 patent in the amount of \$769,028,351.00 plus costs of suit; it is also hereby **ORDERED, ADJUDGED AND DECREED** that Lucent shall have judgment against Microsoft for infringement of the '080 patent in the amount of \$769,028,351.00 plus costs of suit. This judgment shall not terminate the action as to any other patents in this consolidated case.

DATED: April 30, 2007



Hon. Rudi M. Brewster
United States Senior District Court Judge

cc: Hon. Cathy Ann Bencivengo
United States Magistrate Judge

All Counsel of Record